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Committee on the Elimination of Racial Discrimination
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Item 7 of the provisional agenda
Follow-up procedure

Concluding observations on the combined seventh to eleventh periodic reports of Armenia

Addendum

Information received from Armenia on follow-up to the concluding observations*

[Date received: 24 May 2018]

* The present document is being issued without formal editing.

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Paragraph 14

1. *14. Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee again reminds the State party that the absence of complaints or legal proceedings brought by victims of racial discrimination can be indicative of legislation that is insufficiently specific, a lack of awareness of available remedies, fear of social disapproval or reprisals, or an unwillingness on the part of the authorities to initiate proceedings. The Committee therefore recommends that the State party take all steps necessary to facilitate access by minorities to justice, to disseminate information on legislation relating to racial discrimination and to inform the population residing in its territory about all the legal remedies available to them and of the possibility of obtaining legal assistance.*

2. The Draft Law "*On National Minorities*" (hereinafter referred to as "the Draft") was elaborated by the Ministry of Justice of RA. The aim of the Draft Law is to regulate relations concerning the exercise of the rights of National Minorities, to define the issues of state and self-government bodies in relation to this, as well as to regulate legal and organizational basis of the formation and organization of the Council on National Minorities activities. The Draft defines provisions related to ensuring the exercise of the rights of peoples belonging to National Minorities to maintain their identity, traditions, to use their language, to education, to freedom of thought, conscience and religion, to celebrate their national and religious holidays. The Draft also enshrines provisions related to the participation to public governance and to create organizations. In accordance with the Draft in order to promote the exercise of the rights of minorities, to discuss the situation and issues whereof, to suggest recommendations and to express their positions, the Council on the Rights of Minorities shall be established which should be consisted of the representatives of National Minority groups: 2 from each. The Draft also sets the regulations related to the formation of the Council, as well as the activities thereof.

3. It has to be mentioned that the Draft has been discussed with all relevant stakeholders, including, *inter alia*, the representatives of the Coordinating Council and other representatives of national minorities and civil society organizations. Moreover, the Parliamentary discussions have been organized on the Draft Law with the participation of representatives of national minorities presented in the National Assembly of RA. Consultations were also held within the concerned civil society organizations in order to reveal possible gaps of the law to ensure reasonable protection of the rights of minorities.

4. The discussions have been substantive in nature and cover all concerns of the representatives of the civil society. On February 23 the Draft was put on www.e-draft.am website[1] for public discussions and was downloaded 1200 times, more than 50 suggestions have been submitted (either have been accepted or rejected), which speaks about public interest towards the Draft.

5. During the stage of public discussions, the Ministry of Justice of RA has submitted relevant changes of the Draft based on the suggestions of the representatives of national minorities. It seems that the consensus was reached and the Draft law was sent to the Government for approval on March 30, 2018. It is planned to adopt the Draft Law by National Assembly during the fall session.

6. The Ministry of Justice has already elaborated a comprehensive and standalone legislation "*On Ensuring equality*", the adoption whereof is envisaged by the Action Plan

[1] Draft legal acts developed by the RA Governmental bodies are placed on the unified website for publication of legal acts. An online platform has been created with the introduction of the Unified Website, which provides the possibility of presenting legal acts' drafts to the public, organizing online discussions, and as a consequence – the active participation of representatives of civil society in law-making process. The website permits to get acquainted with the legal acts' drafts, look for them, follow their further progress, and become familiar with the presented suggestions. The registered users will be able to present suggestions, get acquainted with the conclusion paper of the suggestions of the legal acts' drafts, the adopted suggestions or the justifications concerning the not adopted ones.

for Human Rights Protection for the period 2017-2019. In particular, according to the Point 77 of the Action Plan it is envisaged to establish legislative mechanisms to ensure equality as set forth under the Constitution of the Republic of Armenia. The Draft Law is in compliance with international best practice and standards. In particular, the Draft Law is in line with the principles set in the EU Council Directive 2000/43 (respectively Articles 2, 7 and 8), as well as with the Article 1 of the protocol 12 of the European Convention on Human Rights, especially the Draft Law envisages all grounds of discrimination prescribed in the abovementioned Article. The Articles 4 and 5 of the Draft provide the definition of discrimination in compliance with RA Constitution amended on 6 December 2015. Moreover, the Law envisages efficient mechanisms available for the defence of rights against all types of discrimination. Article 9 sets the widely known approach in deciding who carries the burden of proof in discrimination cases. Therefore, according to the regulation, first, the claimant must establish a case that, on its face, amounts to discrimination (a "prima facie" case). If he is able to do so, the burden of proof will then shift to the respondent, who will have to show that it did not discriminate against the claimant. The Draft Law also ensures the creation of the specialized body within the Human Rights Defender Office (a Board adjunct to HRD), which will support the Ombudsman to assist to victims of discrimination, launching examination in alleged cases of discrimination and etc. Human Rights Defender Office will be granted the necessary budgetary resources in order to exercise the functions prescribed by the Draft Law, including launching examination in alleged cases of discrimination, organizing public awareness-raising campaigns on issues related to discrimination, assisting to victims of discrimination, submitting of independent report making recommendations and Amicus Curiae opinions to the Constitutional Court, developing guiding documents in combating discrimination, collecting statistics and data on cases of discrimination and conduct of independent survey. After the entry into force of the Draft Law it is planned to adopt a procedural manual for judges on the implementation of the comprehensive standalone anti-discrimination legislation, as well as to organize training courses for judges within the Justice Academy of RA.

7. On 23 February, the Draft Law was put on www.e-draft.am website for public discussions. It is planned to adopt the Draft Law by the National Assembly during the fall session.

8. The Ethnic Minorities and Religious Affairs Division of the Government Staff, which coordinates policy in the sphere of ethnic minorities and religious affairs, periodically disseminates all necessary information materials on legislation and international documents relating to racial discrimination. A range of key materials are available on the Division's official web page (http://www.gov.am/am/religion/).

Paragraph 18

9. *18. The Committee urges the State party to improve its asylum procedure by ensuring that asylum seekers have access to fair and efficient refugee status determination procedures, without discrimination on the basis of religion or ethnic or national origin, in order to better fulfil its obligations under articles 1 and 5 of the Convention and the Committee's general recommendation No. 30 (2004) on discrimination against non-citizens. The Committee encourages the State party to speedily finalize the procedure for ratifying the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.*

10. Asylum seekers in Armenia have access to fair and effective refugee status determination procedure without discrimination on the basis of religion, ethnic or national origin, or otherwise. If data of the person meets the requirements envisaged by the 1951 Refugee Convention and the RA Law on Refugees and Asylum, the asylum seeker is recognized as a refugee and receives asylum. Accordingly, the principle of non-refoulement is applied to him/her and he/she is granted the rights defined by RA legislation, as well as guarantees for their realization.

11. By adoption of the RA "Law on Making Supplements and Amendments to the RA Law on Refugees and Asylum" on December 16, 2015 by the RA National Assembly, the national legislation on asylum seekers and refugees in Armenia was maximally harmonized with international and particularly European standards, proceeding from the obligations assumed by the Republic of Armenia on basis of international conventions. The procedure for granting asylum has been improved, the scope of the asylum seekers and refugee rights has been expanded. The main changes and additions made to the existing law are as follows:

- Vulnerable persons, particularly unaccompanied minor asylum seekers and refugees and minor asylum seekers and refugees separated from family, asylum seekers with mental disorder or disability who are not able to appreciate the nature of the asylum procedures and effectively present his or her asylum claim are provided with additional rights and guarantees for their realization (appointment of a representative, accommodation with priority, etc.);
- The right to higher education equal to that of RA citizens is guaranteed;
- Concrete deadline for processing asylum application is established;
- Free legal assistance to asylum seekers and refugees is provided;
- To prevent abuse of asylum right, the provisions on accelerated procedure for manifestly unfounded claims are introduced;
- The bases for submitting a new asylum application and its processing after a negative decision on granting asylum are clarified;
- The authorities granted to a number of state bodies dealing with asylum issues are clarified;
- Provisions on implementation of measures by state bodies aimed at integration of asylum seekers and refugees into society (language and civic orientation courses, etc.) are envisaged;
- Proceeding from international practice, persons in need of international protection in places of detention are given the opportunity to submit their asylum request to the prison administration;
- If it is impossible to accommodate asylum seekers in the temporary accommodation center due to insufficiency of a number of vacant rooms, asylum seekers are provided with financial assistance in the manner prescribed by the RA Government. The RA state budget for 2017 envisaged financial resources for implementation of the abovementioned provision of the law;
- Provision of temporary protection to groups of individuals in case of mass influx is envisaged.

12. To ensure implementation of the RA "Law on Making Supplements and Amendments to the RA Law on Refugees and Asylum" approved by the National Assembly of the Republic of Armenia on December 16, 2016, the State Migration Service of MTAD of the RA developed a number of by-laws that were approved and came into force. Particularly:

1. The RA Government Decree N 121 of February 9, 2017 "On Making Amendments to the RA Government Decree N 783 of July 18, 2013" provides, that the list of organizations, entitled to consult asylum seekers in the border-crossing points in the manner prescribed by RA legislation, whose employees have free access to an asylum seeker and his family members, should be defined by State Migration Service of MTAD of the RA in consultation with the UNHCR representation in Armenia;

2. The RA Government Decree "On Making Changes and Amendments in the RA Government Decree N 285 of March 25, 2010" stipulates provision of asylum seekers with plastic ID cards having protective layer;

3. The Order N 10 of August 10, 2016 of the Minister of Territorial Administration and Development of the RA "On Approving House Rules in the

Temporary Accommodation Center for Asylum-Seekers". The Order was registered in the RA Ministry of Justice.